borrow the figure of Pitt Cobbett, does a random route across a common acquire the character of an acknowledged path? When does usage crystallize into binding custom? The answer was not difficult in the principal case. In 1782 Lord Mansfield had asserted the rule to be that "upon the declaration of war, or hostilities, all the ships of the enemy are detained in our ports, to be confiscated as the property of the enemy, if no reciprocal agreement is made." *Lindo* v. *Rodney*, 2 Doug. 612 n., 615 n. Subsequently, the usage of nations became somewhat more lenient. Upon the outbreak of the Crimean War in 1854, the belligerent governments allowed liberal periods in which enemy merchant ships in their ports might depart without hindrance. See *The Phœnix*, Spink's P. C. 1. A similar practice was observed at the beginning of each of the principal wars of the ensuing half century. Thus, the United States granted thirty days at the outbreak of the war with Spain, liberally construed in the case of *The Buena Ventura*, 175 U. S. 384. As regards details, however, the practice was not uniform. And the granting of a period seems to have been commonly regarded as an act of grace. An attempt to agree upon a common rule at The Hague in 1907 was unsuccessful. Great Britain, France, Japan, and the Argentine voted against a proposal to recognize the usage as obligatory. The convention drafted was an unsatisfactory compromise. It was never signed by the United States. See HIGGINS, THE HAGUE PEACE CONFERENCES, 295-307. At the beginning of the World War the granting of a period depended in most instances upon reciprocal agreement. There was no uniformity as regards either the principle or the details of its application. See GARNER, INT. LAW AND THE WORLD WAR, I, ch. 6. "There was thus an inchoate usage of exemption, although it was not either sufficiently uniform or sufficiently long established to rank as an obligatory custom." COBBETT, LEADING CASES, [3rd Ed.], II, 167.

LAW OF NATIONS—NATIONALITY—STATELESSNESS.—The plaintiff was discharged from German nationality in 1896. He settled in England, but was never naturalized, nor did he ever acquire nationality in any other country. He sued for a declaration that he was not a German national within the meaning of treaty clauses providing that the property of German nationals might be charged with the payment of certain claims. *Held*, that he was entitled to the declaration. "Statelessness" is recognized in English municipal law. *Semble*, that it is recognized in the law of nations. *Stoeck* v. *Public Trustee*, [1921], 2 Ch. 67.

Whether the status of no nationality is recognized in English municipal law has been questioned but never before decided. A few years ago Lord Phillimore seems to have doubted whether such a status had been recognized in any system of law. *Ex parte Weber*, [1916], 1 K. B. 280, 283. In the same case the House of Lords left the question open. [1916], 1 A. C. 421. No cases have been found on the point in American reports. See HUBERICH, TRADING WITH THE ENEMY, 86-9. Whether the status is conceivable from the point of view of the law of nations has been controverted. See BORCHARD, DIPLOMATIC PROTECTION OF CITIZENS ABROAD, 11, 262; OPPENHEIM, INT. LAW, [3rd Ed.], I, 311-13. Assuming that the court was justified in

finding, from the evidence in the case, that the plaintiff had lost his German nationality for all purposes, the decision that he was "stateless" in English law seems to have been fully warranted by the logic of the situation. The dictum that "statelessness" is recognized in the law of nations will be generally approved.

MASTER AND SERVANT—MASTER'S DUTY TO PROVIDE SAFE INSTRUMENTALITIES—DEFECTIVE MOTOR CAR SUPPLIED FOR USE OF SERVANT.—The plaintiff, an employe of the defendant, was given an automobile for use in his master's business. The starting mechanism of the car was defective. Plaintiff complained, but nothing was done. Plaintiff remained in the defendant's employment and continued to use the automobile. While attempting to crank the car the plaintiff was injured. It was contended that he had assumed the risk. *Held,* that plaintiff had not necessarily assumed the risk by remaining in the defendant's employment after learning of the defect. It was a question for the jury. *Baker* v. *James Brothers & Sons,* [1921], 2 K. B. 694.

The early English rule held that a servant who continued to work after knowledge of the risk lost his right to sue for resulting injury. *Griffiths* v. *London & St. Katharine Docks Co.,* (1884), 13 Q. B. 259. The modern English rule holds that knowledge of the risk does not necessarily require, as a conclusion of law, that the servant assumes the risk, but it is a question for the jury. *Smith* v. *Baker,* (1891), L. R., 16 App. Cases 325; *Baker* v. *James Brothers & Sons, supra.* The majority of American courts follow the early English rule. *Lamson* v. *American Axe Co.,* (1900), 177 Mass. 144; *Kansas City, M. & O. Ry. Co.* v. *Loosley,* (1907), 76 Kan. 103; *Santiago* v. *Walsh Stevedore Co.,* (1912), 137 N. Y. Supp. 611. The North Carolina court, however, follows the present English doctrine. *Lloyd* v. *Hanes & Co.,* (1900), 126 N. C. 359. Professor Bohlen states this to be the only court following *Smith* v. *Baker* in America. See 20 HARV. L. REV. 110. The modern English doctrine of treating the question as one of fact for the jury appeals more to one's sense of justice.

MUNICIPAL CORPORATIONS—ORDINANCES—QUESTIONING VALIDITY BY MANDAMUS.—A city ordinance provided that no one should carry on the business of selling jewelry within the city unless he first obtain a license from the mayor. No rules or directions were laid down for the guidance of the mayor, except that he should require a certain bond of the applicant. Plaintiff applied for such license, which was refused. He then applied for mandamus to compel the issuance of the license, and also denied the validity of the ordinance. *Held,* two justices dissenting, the question of constitutionality was not before the court, and the ordinance gives the mayor full discretion to grant or not to grant such license; hence, a writ of mandamus should not be granted. *Samuels* v. *Couzens,* (Mich., 1921), 183 N. W. 925.

The ordinance attempts the regulation of a business which may be carried on as a matter of right, and which the city could not entirely prohibit. As interpreted by the court, it gives the mayor full discretion to grant or